

Application No.: 10/051,976

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Docket No.: 282172000902

REMARKS**Rejections under 35 U.S.C. 103**

Claim 55 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Foley, U.S. Patent 6,319,662, in view of Tsyurupa, 193 on form 1449, and Davankov, 110 on form 1449, and Tlustakova, U.S. Patent 4,634,604, and if necessary in further view of Yamamoto, U.S. Patent 4,725,355, and further in view of Park et al. (5,789,601). Applicant submits that this claim is patentable for the reasons stated for claims 1-9 and 56-59.

Rejections for double patenting

Claims 1-9 and 55-59 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-47 of U.S. Pat. No. 6,544,727. The rejection of these claims was maintained despite the subject claims having been restricted in a parent application on the basis that "the system claimed in this patent is not a result of restricting in 08/660,910."

Applicant respectfully traverses. The Patent Office in examining 08/660,910, the grandparent application to the present application, considered the method claims to be independent and distinct from system claims contained in that patent application. If subject matter is independent and distinct and therefore by definition a different invention, there is no reason to require a terminal disclaimer.

Claims 1-9 and 55-59 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 53-110 of copending application serial number 10/011,202, claims 1-24 of 09/872,384 or claims 58, 60, 65, 66-97, and 104-114 of 10/016,323. Applicants maintain that these rejections are better addressed upon a finding that the claims are otherwise allowable and thank the Examiner for his notation to that effect in the Office Action.

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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 282172000902. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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